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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,217	08/04/2008	Andreas Lotz	66107-005	7858

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INTELLECTUAL PROPERTY ATTORNEYS
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EXAMINER

PSITOS, ARISTOTELIS

ART UNIT	PAPER NUMBER
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2627

MAIL DATE	DELIVERY MODE
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11/15/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/597,217	Applicant(s) LOTZ, ANDREAS	
	Examiner ARISTOTELIS PSITOS	Art Unit 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>submitted</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

1. Claims 1-3, 5-8,10-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Yuji (JP 2000-206992

The Yugi document (see the accompanying machine translation of the above noted document), describes - see the abstract in this environment the ability of using an audio input device (microphone for instance) so as to generate marker/indexing

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information associated with respective data files. Applicant's attention is drawn to the entire machine translation, and for instance starting at paragraph 10 thereof.

Furthermore, the a/d, d/a compression and reproduction, signal interfacing, control elements etc. are recognized as part and parcel of the overall system.

2. Claims 4 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 1-3,5-8, 10 and 11 as stated above, and further in view of Official notice.

The ability of having an optical record as a recording medium is considered notoriously old and well known and Official notice is taken thereof.

It would have been obvious to modify the base system of Yugi with the well known optical record medium concept known in the recording arts and use such as the storage/recording medium. Motivation is to provide for an archival/memory device. Selection from equivalent memory/storage elements is considered merely a selection between equivalent elements and predicated on such secondary considerations such as cost, availability, marketability etc. and not of patentable weight.

3. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 1-8 as stated above, and further in view of Ryan.

The ability of having swappable/replaceable memory elements/modules in this environment (recording of information) is well established as is further taught by Ryan - see the abstract for instance.

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It would have been obvious to further modify the above noted systems as relied upon with respect to claims 1-8 with the above additional teaching from Ryan, motivation is so as to update, archive a plethora of record media for subsequent retrieval.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

JP 2006-301757 (see attached machine translation thereof) Also discloses an audio indexing system for retrieval of data - see the abstract for instance, and can be relied upon in place of the above base JP document relied upon in paragraph 1 as the basis of a rejection.

Bogomolnyi and Matthews as combined audio/data systems having alternative indexing capabilities.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ARISTOTELIS PSITOS whose telephone number is (571)272-7594. The examiner can normally be reached on part time - Tuesdays & Mondays, 9-3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi can be reached on 571-272-7664. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ARISTOTELIS PSITOS/
Primary Examiner, Art Unit 2627